

### **REMARKS**

The present amendment and remarks are submitted in response to an office action dated February 9, 2007.

A telephone interview was conducted on May 3, 2007. The Applicant thanks the Examiner for her helpful comments during the interview.

A written summary of the interview was filed by the Applicant by fax and received by the patent office on May 16, 2007.

Claims 1-48 are pending.

New claims 49 and 50 are entered.

Claims 16-18, 25, 36-38, 40-43 and 48 are withdrawn. Applicant reserves the right to rejoin the withdrawn claims at a later stage of prosecution.

Claims 10, 21-23, 28, 34 and 45 are objected to for formal reasons.

Claims 1-7, 9-15, 19-24, 26-35, 39 and 44-47 are rejected under 35 USC §102(b) and/or §102(e)

Claim 8 is rejected under 35 USC §103(a).

Independent claims 1 and 48 (Withdrawn), and dependent claims 10, 21-23, 28 and 32 are amended.

### **Claim Objections**

Claims 10, 21-23, 28, and 33-35 are objected to for formal reasons.

The Applicant thanks the Examiner for pointing out these irregularities which are corrected in amendments entered herewith. Specifically:

Claim 10 is amended to recite:

"wherein said impediment comprises inflamed body tissue ~~is inflamed~~." ;

Claims 21 to 23 are amended to recite:

"an intake of fluid through said aperture."

Claim 28 is amended to recite:

" from said a fluid."; and

Claim 32 is amended to recite:

" comprises at least one expandable element".

The Applicant respectfully suggests that all issues of antecedent basis raised by the Examiner are addressed by these amendments.

**Support for amendment to claims 1 and 48**

In order to more clearly differentiate the invention from the art used in formulating rejections, the Applicant has amended claim 1 to include the limitation:

" wherein the hollow tube is characterized by a length of not more than 10 cm."

Support for this limitation appears in the specification in paragraph [0026] of the published application. (*emphases* added)::

*It should be noted that while the term "catheter" is used, any type of port may be used, including a short port adapted for entering a vein, to which a fluid conveying tube is attached outside of the body. Such a port may be, for example, shorter than, **for example, 10 or 5 cm, and may have a section outside the body which is shorter than, for example, 10 or 5 or 1 cm.** This external section may be, for example, thicker or winged, to prevent entry into the body and/or may include an inner threading for attachment of a tube. In some cases, such a port includes a seal, for example, a solid seal that is pierced by a needle section of said tube. Another exemplary type of seal is a flap valve, for example formed by two abutting flaps of soft material, which may be deformed by pushing a tube through them and/or by external pressure (e.g., by pressing on either side with a finger). Other valves, for example in a lumen of the catheter may be used instead or as well.*

The Applicant respectfully suggests that no new matter is introduced into the application by this amendment. A similar amendment is made to independent method claim 48 (Withdrawn) so that the method claim can be rejoined to the application after notice of allowance.

**§102 (b) rejection; anticipation by Kaplan**

Claims 1-7, 9-15, 19, 21-24, 27-34, 39 and 44-47 are rejected under are rejected under 35 USC §102 (b) as being anticipated by US 5,609,574 (hereinafter Kaplan).

Amendment to claim 1 renders the §102 rejection based upon Kaplan moot because Kaplan teaches against what is claimed (column 12; beginning at line 21):

*" In a preferred embodiment, shaft 202 will be constructed of materials and will have dimensions selected as appropriate for insertion of the shaft transluminally inside a guiding catheter (not shown), in a blood vessel. In an exemplary embodiment, shaft 202 will have a length in the range of 110 to 150 cm, and an outer diameter of 1.1 mm-2.3 mm (0.04 to 0.09 inches). Infusion array 216 will be approximately 10 to 60 mm in length. Catheter shaft 202 may be any of a variety of biocompatible, flexible materials including, for example, polyester, polyethylene or polyamide. Preferably, as described above, catheter shaft 202 (including delivery passages 220) and delivery conduits 222 will comprise a single, monolithic extrusion from proximal end 206 to distal end 204."*

Kaplan does not teach, hint or fairly suggest any advantage or even possibility of using a **hollow tube [is] characterized by a length of not more than 10 cm** as instantly claimed.

Applicant notes that *infusion array* 216 of Kaplan is integrally formed with shaft 202 and comprises an end thereof (see Figs 10A and 10B of Kaplan). This, Kaplan's *infusion array* 216 is not equivalent to the instantly claimed hollow tube.

**§102 (b) rejection; anticipation by Zadno-Azizi**

Claims 1-3, 5-7, 9-15, 19-24, 26-35, 39 and 44-47 are rejected under are rejected under 35 USC §102 (b) rejection as being anticipated by US 6,958,059 (hereinafter Zadno-Azizi)

Amendment to claim 1 renders the §102 rejection based upon Zadno-Azizi moot because Zadno-Azizi is completely silent as to any advantage or even possibility of using a **hollow tube [is] characterized by a length of not more than 10 cm** as instantly claimed.

Zadno-Azizi discusses tube length at Column 27 starting at line 6 (*emphases* added) he says:

*"The length of the tubular body 44 may be varied considerably depending on the desired application. For example, when catheter 14 serves as a guidewire for other catheters in a conventional percutaneous transluminal coronary angioplasty procedure involving femoral artery access, tubular body 44 is comprised of a hollow hypotube having a length in the range from about 160 to about 320 centimeters, with a length of about 180 centimeters being optimal for a single operator device, or 300 centimeters for over the wire applications. Alternatively, for a different treatment procedure not requiring as long a length of tubular body 44, shorter lengths of tubular body 44 may be provided. "*

The Applicant respectfully suggests that Zadno-Azizi is concerned only with thoracic applications. The instantly claimed **hollow tube [is] characterized by a length of not more than 10 cm** is not even long enough to hold on to the device if it is implanted in the body for thoracic therapy.

The Applicant respectfully suggests that the utterance *for a different treatment procedure not requiring as long a length* does not envision local treatment a few centimeters from a transdermal entry hole. The Applicant finds nothing in Zadno-Azizi to suggest that any non-thoracic procedure is contemplated. Therefore, *for a different treatment procedure not requiring as long a length* should not be read onto the instantly claimed hollow tube.

**§103 (a) rejection; Kaplan in view of prior art**

Claim 8 is rejected under 35 USC §103(a) as being unpatentable over Kaplan in view of admitted prior art.

The Applicant respectfully suggests that claim 8 is in condition for allowance at least by virtue of its dependence from an allowable base claim.

New Claims

New claims 49 and 50 are entered herewith. The Applicant respectfully suggests that these new claims read on the elected species so that their examination is appropriate. Specifically, each of the new claims includes the, imitations of independent claim 1 prior to the current amendment and an additional limitation to differentiate between what is claimed and the art of record.

Support for additional limitations of new claim 49 is found at least in paragraph [0031] of the application as published.

Support for additional limitations of new claim 50 is found at least in paragraph [0006] and [0019] of the application as published.

The Applicant respectfully suggests that no new matter is introduced into the application by new claim 49 and/or new claim 50.

All issues raised by the Examiner have been addressed

The Applicant respectfully suggests that dependent claims are 2-47 are in condition for allowance at least by virtue of their dependence from an allowable base claim. Additionally, the Applicant suggests that new independent claims 49 and 50 are in condition for allowance.

Upon allowance of independent claim 1, rejoinder of all withdrawn claims directed towards non-elected species, including independent claim 48, is respectfully requested.

Prompt notice of allowance is respectfully and earnestly solicited. In the event that the Examiner believes that there are problems which would make it impossible to issue an allowance for all the claims, the Examiner is respectfully requested to call the undersigned at 1 (877) 428-5468, which is a US toll free number connected directly to our office in Israel (please note the 7 hour time difference and the official work week is from Sunday to Thursday).

Respectfully submitted,



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Reg. No. 40,338

July 5, 2007

Enclosed:  
Petition for Extension (2 Months); and  
Request for Continued Examination (RCE).